

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MARCO ANTONIO PEREZ PEREZ, et al., :
Plaintiffs, :
-against- :
ESCOBAR CONSTRUCTION, INC., et al., :
Defendants. :
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ORDER

20 Civ. 8010 (LTS) (GWG)

GABRIEL W. GORENSTEIN, UNITED STATES MAGISTRATE JUDGE

On June 5, 2023, plaintiffs moved for a 90-day extension of time to file a motion to substitute party for deceased opt-in plaintiff Oscar Garza. See Docket ## 273, 274. Although plaintiffs indicate that defendants do not consent to this request, see Docket # 273 ¶ 4, defendants have not filed opposition.

Under Fed. R. Civ. P. 6(b), the Court may extend the deadline for a motion for substitution upon a showing of good cause. See Unicorn Tales, Inc. v. Banerjee, 138 F.3d 467, 470 (2d Cir. 1998); see also Go v. Rockefeller Univ., 2013 WL 3816700, at *4 (S.D.N.Y. July 19, 2013) (“Because plaintiff’s Rule 25 motion is timely, Rule 6(b)(1)(A) controls. Under this subsection, a court may extend a party’s time to move for good cause.”). Plaintiffs’ counsel avers that a probate application for Garza was filed sometime before May 24, 2023, and that Garza’s probate attorney stated on that date that an “attorney ad litem for the unknown heir should be appointed soon.” Docket # 273 ¶ 10. Counsel also avers that the estate “is having a problem” locating Garza’s heirs, id. ¶ 13, and that the local probate court has given counsel a timeline of “three months to three years” for the completion of the probate case, id. ¶ 14.

In sum, plaintiffs aver that through no fault of plaintiffs or counsel, there is as yet no personal representative for Garza’s estate who may be substituted as a party under Fed. R. Civ. P. 25. In light of the fact that defendants have not filed papers explaining their opposition to this motion, we will grant a 90-day extension of the deadline; that is, until September 4, 2023. The Court finds it unlikely that it will grant further extensions given that the Court cannot wait indefinitely to see if a representative is appointed. In any event, the Court will not grant any further extensions absent the filing of an application that is accompanied by a detailed sworn statement showing all steps taken to by the estate to effectuate the appointment of a representative.

SO ORDERED.

Dated: July 6, 2023
New York, New York


GABRIEL W. GORENSTEIN
United States Magistrate Judge